United Nations A/51/PV.78

General Assembly
Fifty-first Session

Official Records

78th plenary meeting
Tuesday, 10 December 1996, 10 a.m.
New York

President: Mr. Razali Ismail ..... (Malaysia)

The meeting was called to order at 10.10 a.m.

Statements on the occasion of Human Rights Day

The President: Today we commemorate the adoption of the Universal Declaration of Human Rights by the General Assembly on 10 December 1948. The Declaration of 1948 marked the first time in history that we witnessed the emergence of a universal acceptance of minimum standards, expressing the fundamental rights and freedoms of the entire human community, without partitions or restrictions. This is a milestone anniversary.

Normally on such a day we gather to reaffirm the commitment of the international community to meet the aspirations of men, women and children for a world of peace, justice and freedom, and for equitable economic and social development. However, it is apparent from ongoing discussions in the United Nations, and even more so in the real world outside, that starvation, torture, killings, deprivation and discrimination are alive and thriving. All this in spite of there being more than 70 legal instruments on human rights currently in force.

Revelations of widespread human rights violations, in virtually all regions of the world, lay bare the wide gap between our international principles and the stark facts of life for so many of our fellow human beings. Such revelations also point to a quintessential dilemma of the inter-governmental process based on the sovereignty of States: that despite sophisticated codification of legal instruments and carefully constructed mechanisms to protect human rights, these are of little use if there is no political will on the part of those who govern to implement them effectively.

Recent events in the Great Lakes region, in Rwanda and in the former Yugoslavia testify to the moral impasse in which humanity finds itself today. Our repeated inability to guarantee the most basic of rights — the right of the human person to security and to live free from terror — should give a severe jolt to the human conscience, and calls for much introspection on the whole human rights debate.

If universality is the central tenet of human rights, universal application of their principles is the guardian of human dignity for all. Since 1948, global events have demonstrated with increasing clarity that peace, democracy, development and human rights are intrinsically interdependent. We understand that peace and human rights are knitted together, the removal of one strand resulting in the unravelling of the other. We also know that sustained economic and social development, and respect for human rights, cannot be achieved without each safeguarding the other.

Why then does the dominant human rights paradigm continue to fail the majority of humanity? Maybe it is because "human rights", as reflected in the current Charter, says little about global injustices or the rights of humanity, and does not provide a blueprint for a more just world order. Instead, human rights are posited in an exclusively individual context. This poses a difficult

96-87034 (E)

This record contains the original text of speeches delivered in English and interpretations of speeches delivered in the other languages. Corrections should be submitted to original speeches only. They should be incorporated in a copy of the record and be sent under the signature of a member of the delegation concerned, *within one month of the date of the meeting*, to the Chief of the Verbatim Reporting Service, Room C-178. Corrections will be issued after the end of the session in a consolidated corrigendum.

dichotomy between State and society by disregarding the political and social context of the rights situation, and by taking little notice of the communal moorings of the individual.

There is no doubting that ideas on human rights have contributed significantly to civilization by endowing the individual with certain basic rights, such as the rights of free speech and free association; by strengthening the position of the ordinary citizen against the arbitrariness of powers and by expanding the space for individual participation in public decision-making. However, these democratic principles have scarcely flowed in the opposite direction, and have neither forced the State, nor authority in general, to be more accountable to the public.

This inherent weakness in the human rights paradigm has even allowed Governments and powerful interest groups to repackage human rights, to discard all notions of universality and inalienability, and to use them selectively as political weapons against their opponents. Ironically, the politicization of human rights in this fashion is now practised by countries, North and South alike, whenever politically expedient, each pointing a finger at the other.

It has long been argued that human rights talk is inflationary power talk. Though colonial rule has ended, domination by countries in various spheres continues to have an impact on the human rights of the vast majority of the developing world, admittedly in ways which are more subtle and sophisticated, but no less devastating.

Domination of global peace and security through power elitism, domination over the survival of life on our planet by possession of nuclear weapons, domination of global trade, finance and development through the Bretton Woods institutions and the World Trade Organization, and domination over the global news and information networks merely elicit criticism of those in power and posturing on human rights. The scepticism has only increased since the progressive degeneration of human rights standards within developed societies.

At the same time, recourse to debates on differentiated cultural values also undermines the universality and justified moralities of human rights, and may be used to excuse or defend autocratic practices. Whether one articulates rights or upholds responsibilities, these should be guided by a larger spiritual and moral world view which endows human endeavour with meaning and purpose, and with coherence and unity.

After all, individual rights and liberties will only be meaningful if they can bring about fundamental changes to society by transforming values, attitudes and power structures. Ultimately the bottom line is the role of Governments and their accountability to those who are governed by them. As things are, there are many that have failed people, promising will-of-the-wisp doctrinal solutions as panaceas, but cloaking power perpetuation at any cost.

I now call on the Secretary-General.

The Secretary-General: I am delighted to join you on this important occasion. On this Human Rights Day, the international community rededicates itself to the universal goal of defending fundamental freedoms and promoting basic human rights wherever they are threatened. We reaffirm that human rights constitute one of the basic pillars of the Charter of the United Nations. They are the foundation of our international society. Such freedoms and rights are universal and must be the birthright of all humanity.

Peace, human rights, democracy and development are the daily work of the United Nations. All around the world, the United Nations is working hard to prevent and resolve conflict, and to offer millions of people new hope for a better and more peaceful future. Human rights are a crucial part of these efforts. We fully recognize the need for individual freedoms and individual rights to be upheld as a foundation for peace within and among nations.

But as the twentieth century draws to a close, human rights face increasing threats and new challenges. The spread of war, violence, hunger, poverty and growing inequality all risk undermining hard-won rights and freedoms. Intolerance, racism, xenophobia, religious fanaticism and terrorism all give serious cause for concern. That is why it is now more urgent than ever for all the peoples of the world and all Member States to renew their commitment to the global task of protecting and promoting human rights.

The right to life, freedom from torture and ill-treatment, equality before the law, and freedom of expression are all rights which require constant protection and vigilance. Equally, our commitment to lasting development requires that the international community uphold and promote fundamental economic and social rights, such as the right to food, shelter, employment, education and health care.

Over the last 50 years, the United Nations has introduced and developed a comprehensive framework for the protection of human rights. We have established precise international human rights standards. We have created ways and means of improving respect for human rights within Member States. And where necessary and possible, we have intervened to protect victims of human rights abuses and violations.

Countless groups and thousands of individuals have turned to the United Nations human rights bodies for support against discrimination, torture, executions, disappearances and religious and racial intolerance. And every year, individual Member States receive vital technical and educational human rights assistance. Today, the United Nations High Commissioner for Human Rights is working actively with Member States to encourage the establishment and strengthening of national institutions for the protection and promotion of human rights.

To this end, the Centre for Human Rights has established an important presence in a number of Member States. In addition, the Centre is actively promoting training initiatives for members of the military, police, prison officials, lawyers and judges in countries all around the world. A global programme of human rights education has been implemented to support the United Nations Decade for Human Rights Education.

(Spoke in French)

Finally, I wish to add that human rights are a concern not only of the United Nations, but also for all actors on the global scene. In fact, public opinion, non-governmental organizations, parliaments and the media are also full-fledged guarantors of respect for human rights. On numerous occasions these new actors in international relations have shown their ability to alert the world to situations and to tragic events where human rights have been scorned. Thus they play a key mobilizing role and bear witness to the vigilance of the international community.

In fact, in order to become an effective part of the daily lives of peoples and of nations, human rights must be monitored continually. The watchful eye of public opinion, the determination of every woman and man, our constant collective engagement — these are the best means of safeguarding individuals.

The rule of law must be furthered and international awareness must be increased through joint action by States, international organizations, non-governmental institutions and individuals. The new international actors can contribute to helping States and Governments to become more aware and more attentive to the rights of the individual. They can also take part in improved education for all citizens and in providing better information to the general public on questions of human rights and public freedoms.

Finally, this collective assumption of responsibility for protecting human rights is an essential contribution to the democratization of international life.

Indeed, we know that the process of democratization is indissociable from the protection of human rights. Both are universal in dimension. They are common aspirations shared by all peoples and all nations.

More than ever before, the current globalization of the economy must go hand in hand with the globalization of democratization and of respect for human rights.

On this anniversary, I once again invite the international community to join in the struggle in the service of individual rights.

For the struggle for men, women and children and for their dignity is in itself sufficient to justify our full commitment and our full determination.

Agenda item 8

Adoption of the agenda of the fifty-first regular session of the General Assembly, and allocation of items

Fourth report of the General Committee (A/51/250/Add.3)

The President: I now draw the attention of representatives to the fourth report of the General Committee (A/51/250/Add.3), concerning a request by a number of delegations for the inclusion in the agenda of an additional item entitled "Observer status for the International Tribunal for the Law of the Sea in the General Assembly" and a request by Italy for the inclusion in the agenda of an additional item entitled "Proclamation of 21 November as World Television Day".

In paragraph 1 of the report, the General Committee decided to recommend to the General Assembly that the

item entitled "Observer status for the International Tribunal for the Law of the Sea in the General Assembly" should be included in the agenda of the current session.

May I take it that the General Assembly decides to include this additional item in the agenda of the current session?

It was so decided.

The President: The General Committee further decided to recommend to the General Assembly that the additional item be considered directly in plenary meeting.

May I take it that the General Assembly decides to consider this item directly in plenary meeting?

It was so decided.

In paragraph 2 of the report, the General Committee decided to recommend to the General Assembly that the item entitled "Proclamation of 21 November as World Television Day" should be included in the agenda of the current session.

May I take it that the General Assembly decides to include this additional item in the agenda of the current session?

It was so decided.

The President: The General Committee further decided to recommend to the General Assembly that the additional item be considered directly in plenary meeting, on the understanding that the General Assembly would determine when the item would be considered during the fifty-first session.

May I take it that the General Assembly decides to consider this item directly in plenary meeting, on the understanding that the General Assembly will determine when the item will be considered during the fifty-first session?

It was so decided.

Mr. Ferrarin (Italy): We thank the General Assembly for having accepted the inclusion of the new item in the agenda of the fifty-first session.

Two weeks ago, on 21 and 22 November 1996, the first World Television Forum was held at the United Nations, financed entirely by Italy. For the first time in the life of this Organization, leading media personalities, of both the public and private sectors, met under the auspices of the United Nations to discuss the growing significance of television in today's changing world and to consider how they might enhance their future cooperation.

In the final declaration of the World Television Forum, the event was regarded as historic, and indeed it was an historic gathering, since it was attended by more than 140 representatives of broadcasters, representing more than 50 nations.

A useful link has been established. Let us now build on it.

The participants in the forum supported the idea of establishing an annual World Television Day, to be celebrated each 21 November, which would be marked by global exchanges of television programmes, focusing particularly on such issues as peace and security, economic and social development, and the enhancement of cultural exchange. Responding to this appeal, Italy has decided to submit a draft resolution to this end that up to now has attracted 28 sponsors.

At the same time, I would like to stress that as Italy financed all the expenses of the Forum, at no cost to the United Nations, the proclamation of World Television Day will not result in any programme budget implications for the United Nations.

Italy and other countries are considering organizing a second World Television Forum as early as next fall. For this reason, and in particular because of the evident need for public and private broadcasters to know well in advance that a second Forum could be held simultaneously to mark the United Nations World Television Day in order to plan their budget outlines before the end of the year, it is very important that this item be considered before the date of recess of this session of the General Assembly.

Therefore we respectfully submit the formal proposal that the item just included in the agenda be considered in plenary meeting next week, before the adjournment of our work.

If the General Assembly approves the proclamation of 21 November as World Television Day, this will be seen as a marked sign of interest and a strong incentive

to plan and adequately fund a second World Television Forum next year.

The President: Delegations have heard the proposal by the representative of Italy to consider this item at the present session, before the recess.

If I hear no objection, may I take it that the Assembly agrees to consider this item at its present session, before its recess this month?

It was so decided.

Agenda item 59

Report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994

Note by the Secretary-General transmitting the first annual report of the International Criminal Tribunal (A/51/399)

The President: May I take it that the Assembly takes note of the first annual report of the International Criminal Tribunal for Rwanda?

It was so decided.

The President: I now call on Mr. Kama, president of the International Criminal Tribunal for Rwanda.

Mr. Kama (President of the International Criminal Tribunal for Rwanda) (*interpretation from French*): I should like to begin by expressing my gratitude for the great honour bestowed upon me of addressing the Assembly to introduce the first annual report of the International Criminal Tribunal for Rwanda.

With the Assembly's permission, I shall not summarize the written report before it. I would rather draw attention to certain aspects of the establishment and functioning of the Tribunal. Accordingly, I shall divide my statement into three main parts. First, I shall give a brief description of the main stages and characteristics of the establishment of the Tribunal. Then, I shall give a brief round-up of the judicial activities of the Tribunal, before moving on to the third part of my statement in which I shall describe the main problems we have run into in trying to accomplish the mission that the international community has entrusted to the Tribunal.

With regard to the establishment of the Tribunal, I should like briefly to describe the legal foundations that prompted the Security Council's decision to establish the International Criminal Tribunal for Rwanda. I need not dwell on the number of massacres, the extent of the atrocities and the extreme gravity of the crimes committed in Rwanda in 1994, which helped create such a tragic situation in that country that it posed a threat to international peace and security. The Security Council, having recognized this, felt that the establishment of an international tribunal to try persons presumed guilty of these crimes and actions would first help put an end to the situation and then remedy its effects.

Consequently, following a request from the Government of Rwanda, and by virtue of its authority under Chapter VII of the Charter of the United Nations, the Security Council, by resolution 955 (1994) of 8 November 1994, established the International Criminal Tribunal for Rwanda. Its creation, coming on the heels of the establishment of the International Tribunal for the Former Yugoslavia, is a recognition of the importance of justice in seeking national reconciliation. Legal proceedings must help break the vicious circle of violence, thus helping to promote national reconciliation in Rwanda and ultimately leading to renewed and lasting peace.

Political and social stabilization in Rwanda depends on whether all citizens, regardless of their ethnic origin, can be reconciled. Such national reconciliation would imply the due administration of justice, first of all to ensure that the guilty parties no longer feel they can act with impunity, which would act as a deterrent. Secondly, it would enable victims and their families to feel that justice was being done and that the real perpetrators were being punished, which would dampen any feelings of revenge. If justice is not done, there may be no end to hatred, and atrocities could go on and on, with the executioners believing they were immune to prosecution and the victims' thirst for revenge fuelled by a sense of injustice and the idea that an entire ethnic group was responsible for the atrocities committed against them. In this regard it is of paramount importance that justice be done, because this will help replace the idea of collective political responsibility with the idea of individual criminal responsibility.

The United Nations initiative of establishing two Tribunals is quite unprecedented. Although we should remember their prominent precursors — Nuremburg and Tokyo — we have to recognize that they were deeply imprinted with their particular political and judicial setting, were multinational as opposed to international, and were seen as the symbol of the "justice of the victors".

The precedent set by the establishment of the Tribunal for Rwanda is all the more remarkable in that this is the very first time in history that a failure to respect the provisions of international humanitarian law in internal conflicts has been internationally criminalized.

As to the main stages in the establishment of the Tribunal, as the Assembly is aware, on 24 and 25 May 1995 the General Assembly, by resolution 49/324, elected the judges who would preside over the court of first instance: Judges Lennart Aspegren of Sweden, Tafazzal Hossain Khan of Bangladesh, Yakov Ostrovsky of the Russian Federation, Navanethem Pillay of South Africa, William Hussein Sekule of Tanzania and myself, from Senegal. The fact that the Tribunal is made up of judges from different countries who therefore represent different legal traditions proves the will to ensure that the Tribunal is truly international.

The statute of the Tribunal provides that the Appeals Chamber, made up of five judges who sit in The Hague, is a common body serving both our Tribunal and the International Criminal Tribunal for the Former Yugoslavia. The 11 judges of the Tribunal met for the first time in June 1995 at The Hague to hold the first plenary session; we met there because our headquarters in Arusha were not ready. At the plenary meeting, I had the great honour to be elected by my peers as President of the Tribunal, while Judge Ostrovsky of the Russian Federation was elected Vice-President. During this initial plenary meeting, we took our oath and approved the rules of procedure and evidence, which, as provided for in Security Council resolution 955 (1994), basically take their inspiration from the rules for the criminal Tribunal for the former Yugoslavia, but include the necessary amendments.

The reason for having similar rules of procedure and evidence for the two Tribunals and a common Appeals Chamber was the desire to harmonize, to the extent possible, the procedures and functioning of the two Tribunals. The President of the International Criminal Tribunal for the Former Yugoslavia, Judge Cassese, and I have tried to work together to ensure such harmonization, because we believe that the greatest possible level of integration between our two Tribunals can only help in the establishment, in future, of what we hope will be a permanent and universally competent international criminal court.

Although it did not take long to establish the Tribunal's main legal instruments, we ran into problems when it came to its practical establishment, particularly in terms of its headquarters and Detention Unit.

The Security Council, in resolution 977 (1995) of 22 February 1995, decided that, subject to the conclusion of appropriate arrangements between the United Nations and the Government of the United Republic of Tanzania, the International Tribunal for Rwanda would have its seat at Arusha. The headquarters agreement between the United Nations and the United Republic of Tanzania was signed on 31 August 1995 at New York, and a lease was subsequently signed for the renting of space to the Tribunal in the Arusha International Conference Centre. The cooperation of Tanzania, as host country, has indeed been exemplary. Its support for the Tribunal has been remarkable, and I should like here to express my appreciation to the authorities of Tanzania and to thank them for their constant support.

The Tribunal had been obliged to wait for a full year for a headquarters. Finally, in November 1995, it was able to move into the premises made available to it and begin to enjoy the support necessary to carry out its mission. Even then, working conditions remained very rudimentary. For several months, it had only essential staff and very limited communications facilities. In August, the necessary arrangements were made for establishing the Detention Unit. At first, an agreement with the Tanzanian authorities made available a part of the Arusha prison, but additional space was needed and construction is still continuing. When completed, the Unit will consist of about 50 cells, of which 12 were completed in May 1996, when the first three detainees were received on 26 May.

With regard to the Tribunal's other facilities at Arusha, arrangements have been made to build two courtrooms, the first of which was completed in August 1996; several sittings have been held there. The room, however, is not working as it should because it is not yet fully equipped with audio-visual facilities that will enable sittings to be videotaped for broadcast which will permit us to protect witnesses by scrambling their images and altering their voices.

The problems created by the lack of means at the Tribunal's disposal have been accompanied by others created by its geographical dispersion and jurisdictional issues. The Tribunal's headquarters, judges and Registry are at Arusha, but the Prosecutor is stationed at The Hague, while the remainder of the Prosecutor's staff are located at Kigali. Under the Tribunal's statute, the Prosecutor for the International Tribunal for the former Yugoslavia also serves as Prosecutor for the International Tribunal for Rwanda, which is why he exercises his dual mandate at The Hague. On 1 October 1996, Judge Louise Arbour of Canada replaced Judge Richard Goldstone of South Africa in both functions, and I should like to avail myself of this opportunity to pay a tribute to the work done by Judge Goldstone, whose great devotion and deep moral commitment have left their mark on both Tribunals. I am confident that Judge Arbour will continue to work in the same spirit. Judge Honoré Rakotomanana of Madagascar was appointed Deputy Prosecutor to assist Judge Arbour on 20 March 1995 and is stationed at Kigali. Upon his arrival there, he began to recruit personnel for the Office of the Prosecutor and establish the operational structures and procedures necessary for the conduct of investigations and judicial proceedings with a view to beginning work as soon as possible, notwithstanding the many logistical problems that existed, principally because of the geographical separation of the Office of the Prosecutor between Kigali and The Hague and because of numerous, sensitive security problems.

The Registrar, who is in charge of the Tribunal's organization and administration, was appointed on 8 September 1995 and has been at work since then with a very small staff. However, thanks to his initiative and resourcefulness, he has been able in a very short time to establish the appropriate administrative and legal infrastructure for the Registry's judicial activities, which became operational in November 1995.

With regard to the Tribunal's activities, I would recall that it was just one year after its establishment that the Tribunal actually began to function at Arusha. The first indictment of eight suspects was confirmed on 28 November 1995. Since then, 13 additional indictments have been confirmed for a total of 21 persons accused. With each accusation, a warrant is drawn up and transmitted to the authorities of the country in which that person resides or was last known to reside. Of the 21 accused, 13 have been arrested, of whom seven are at present in preventive detention in the Tribunal's Arusha Detention Unit. We are pleased to note that most of the countries to which requests have been submitted have cooperated with the Tribunal, but one of them, Zaire, perhaps owing to internal problems, has not, we regret to say, responded to our repeated requests.

The Tribunal held its first public hearing on 11 January 1996, at which time it reviewed a deferral request filed by the Prosecutor. This procedure enables the Tribunal to request the authorities of a State to defer to it in its consideration of cases that fall within its competence. Three deferral requests have been made by the Tribunal so far, and I am happy to say that they have all been given favourable consideration by the State authorities under the principles of the Tribunal's primary international jurisdiction.

The Tribunal has also adopted a new and original procedure under which a Judge may order the provisional detention and transfer to the Detention Unit of a suspect when he deems it necessary to prevent the escape of the suspect or the intimidation of victims and witnesses or when detention and transfer are vital to an investigation. The Tribunal has issued a request for the provisional detention and transfer of four important suspects now imprisoned in Cameroon. Subsequently, four more decisions were rendered extending provisional detention of the four suspects, and we trust the Cameroonian authorities will soon accede to the Tribunal's request for their transfer.

With regard to trials per se, the Tribunal has come a long way. The first three suspects appeared before the Tribunal in May 1996; this was an especially important event since it marked the very first time that an international criminal tribunal was sitting in Africa. Three additional proceedings have since been heard. However, notwithstanding all our efforts, the first trials on merit will not be held until January 1997, since lawyers have requested and been granted postponements in order to have more time to prepare their defence. We are aware of the criticism that this has aroused, and we regret the frequent deferrals, but it is our intention to hand down fair and impartial justice, and we feel obliged to respect the rights of the defence, as provided in article 14 of the International Covenant on Civil and Political Rights, which was the inspiration for article 20 of our statute and various other rules we have adopted to protect the rights of the accused.

Mr. Fernández Estigarribia (Paraguay), Vice-President, took the Chair.

I hope that many actual trials will start in the months to come, taking into account the number of initial hearings which have already taken place.

Thus, despite all the difficulties encountered and the very sensitive political context in which our Tribunal works, we feel that we can say today to the international community that we have done our utmost to carry out the mission entrusted to us. Yet, although much progress has been made, the Tribunal still has many challenges to overcome, which I will now briefly bring to your attention.

What are the problems currently confronting the Tribunal? The Tribunal has enjoyed support and assistance from a number of States in carrying out its mission. We would note in particular the importance of the cooperation offered to us by States, which can be identified on three levels. The first level is financial and material assistance. The second level is the actual effective cooperation between our Tribunal and the national judicial and police authorities of States. Finally, the third level is the modification of national legislation to allow for this kind of cooperation.

Many countries have in one way or another supported the activities of our Tribunal by making voluntary contributions, either by providing funds or by placing skilled staff at our disposal. The list of these countries is too long for me to thank each one individually here, but I would like to thank them all warmly.

The Tribunal depends to a large extent on the goodwill of States in carrying out its judicial functions. Cooperation between the organs of the Tribunal and States is necessary at all levels of judicial proceedings — from the collection of testimonies and the compilation of evidence to the arrest and detention of persons indicted. In this connection we would like to pay tribute to the countries that have arrested indicted persons, namely Belgium, Côte d'Ivoire, the United States, Kenya, Switzerland and Zambia.

The request for judicial assistance and cooperation is covered under article 28 of the Tribunal's statute, and Security Council resolution 955 (1994) clearly establishes the obligation of States to cooperate. This cooperation is vital for the Tribunal to operate properly. It is crucial that this cooperation be established as swiftly and as comprehensively as possible.

We know that very often there are legal, constitutional or administrative obstacles which prevent or slow down police and judicial cooperation between States and the Tribunal. Indeed, only a few countries have legally recognized the existence of our Tribunal by adapting their national legislation and enabling their national courts to cooperate with us. It is indeed regrettable that no African State is among these countries. We are not asking African States to provide substantial financial assistance, given the crisis which is being felt by all States, and particularly by developing countries. However, we have a right to expect African States to provide moral support to our Tribunal, as Europe provided moral support to the International Tribunal for the Prosecution of Persons Responsible for Serious Violations of International Humanitarian Law Committed in the Territory of the Former Yugoslavia since 1991. We therefore appeal to all States to adapt their national laws where necessary in order to enable their national, judicial and police authorities to cooperate fully with the Tribunal.

In this connection, we shall shortly appeal to all Member States of the United Nations to comply with the obligation to cooperate with the Tribunal, as provided by the Security Council in the statute. I have also asked the Secretary-General of the Organization of African Unity to transmit this appeal to all African States.

I would also like to use this opportunity to appeal to all of you for cooperation in connection with the appeal made to you last 19 November by the President of the International Tribunal for the Former Yugoslavia in the Hall.

I should also like to mention to you some other difficulties encountered by the Tribunal in its daily work. First, the Tribunal as a whole, and the Office of the Prosecutor in particular, need greater human and material resources to continue and to speed up their work. Our Tribunal has not always enjoyed the support from the United Nations administration that it had expected. The practical problems faced by the Office of the Prosecutor in Kigali are particularly important and pressing. It is necessary to remember, while insisting that that Office be given adequate resources, that justice cannot be done in Rwanda without the necessary investigations and indictments being drawn up. It should enjoy the greatest possible support from the international community.

While I have no wish to touch on the political problems in the Great Lakes region, you will nevertheless appreciate the particularly difficult situation for our investigation teams in carrying out their investigations everywhere in Rwanda. Not only are their working conditions very precarious, but their very safety is

directly threatened. This therefore slows down all our inquiries and makes the task of the Prosecutor extremely complicated.

What is even more serious, we are also very disturbed by the implications of this political situation for our witnesses who might be called upon to appear before the Tribunal and thus place themselves at high risk. Most of them live in Rwanda and Zaire, sometimes in conflict areas. Access to most of the witnesses today is extremely difficult, if not practically impossible, and the problems attached to their security are numerous. This has been a matter of particular concern for the judges, who are perfectly aware of its importance for the organization of trials. If the protection of witnesses requires enormous resources, then we must recognize that the first prerequisite to doing so is the establishment of a unit to provide assistance to victims and witnesses in accordance with the Statute. There has been some delay here, but firm instructions have been given for this unit to be established as soon as possible.

In concluding, I should like to emphasize the importance of the mission entrusted to the Tribunal for the future of the Great Lakes region. The judges and all the staff of the Tribunal are aware of this and will do their utmost to insure that justice is done as diligently as possible, despite the difficulties encountered.

The report of the first year of the Tribunal shows that every effort has been made to carry out our work. The ground covered in the implementation of Security Council resolution 955 (1994) is substantial. The legal and administrative infrastructure necessary for trials is now under way, and numerous investigations are being carried out, 21 persons have been indicted, there are seven detainees in the Detention Unit at Arusha, and trials will begin in the coming months.

We are certainly aware that much remains to be done and that we have only partially responded to the expectations of the people of Rwanda and the international community. Nevertheless, one might well consider that what has been done already testifies to great perseverance, given the brief existence of the Tribunal and the numerous difficulties it has encountered. Despite those difficulties, the judges are utterly committed to the mission entrusted to them by the international community. They trust that they will be able carry out their work and will spare no effort to that end.

Mr. Mwakawago (United Republic of Tanzania): Permit me at the outset to express my delegation's sincere appreciation to Judge Laity Kama, President of the International Criminal Tribunal for Rwanda, for a comprehensive first report, which is quite informative. In spite of teething problems, the Tribunal is very much on course. The Tribunal must be enabled to discharge its mandate expeditiously and without any equivocation.

The United Republic of Tanzania welcomes the note of the Secretary-General on agenda item 59, as contained in document A/51/399 of 24 September 1996. The report which it transmits, submitted in accordance with article 32 of the statute of the International Criminal Tribunal for Rwanda as contained in Security Council resolution 955 (1994), provides a meaningful basis for evaluating the extent to which the Tribunal has been able to discharge its responsibilities and the challenges it faces in doing so.

The primary responsibility of the International Criminal Tribunal for Rwanda is to bring to justice those persons responsible for genocide and other serious violations of international humanitarian law committed in the territory of Rwanda and Rwandan citizens responsible for genocide and other such violations committed in the territory of neighbouring States between 1 January and 31 December 1994. That is the mandate which the international community entrusted to the Tribunal.

It is heartening to note from the report the progress the Tribunal has made in spite of some constraining circumstances facing its constituent parts — the Trial Chambers, the Office of the Prosecutor and the Registry. The progress made is commendable and deserves our support.

The report points out that the Tribunal at Arusha continues to require our increased support in terms of resources and judicial assistance. If we succeed in this challenge and thus enable the Tribunal to fulfil its mandate, we will have made a significant contribution towards a more effective regime of international law and the meaningful protection of human rights. We will thus be able to endorse the fact that law can indeed enhance the mechanisms that protect international peace and security while at the same time providing a critical catalyst for the healing process in Rwanda. We cannot afford to lose sight of that noble undertaking.

My delegation is concerned, however, that the Tribunal faces a precarious financial situation which may

impinge upon some of its activities, particularly those of the Office of the Prosecutor. It is the Office of the Prosecutor which bears the primary responsibility for investigations and prosecutions. Fulfilling our commitment to bring to justice those responsible for the genocide in Rwanda hinges significantly on the performance of this Office.

The Tribunal has already indicted a score of suspects. It could do more. Indeed, it needs to do more in order to demonstrate not only to the Rwandese population but to the international community that impunity will not be allowed to stand. Fugitives must be placed on notice: they can run, but they cannot hide. It needs to do more to hasten the process of reconciliation in Rwanda by expunging a sense of collective guilt and assigning individual guilt. It is the best way we can fulfil the aspirations of this Assembly in ensuring that the perpetrators of genocide in Rwanda are brought to justice, and in assuring the people of Rwanda that justice is not only done, but seen to be done.

The United Republic of Tanzania is with considerable apprehension concerned that the financial and operational difficulties facing the Tribunal may be seen as militating against any notion we may have regarding our common will for combating crimes against humanity and the mutual responsibility that it entails. This Assembly and this Organization must do their utmost to support both the Tribunal for Rwanda and the Tribunal for the former Yugoslavia. We have an enormous obligation to the survivors of the genocide in Rwanda and the former Yugoslavia and, indeed, to the victims of those heinous crimes.

Another aspect of critical importance to the mandate of the Tribunal pertains to the cooperation and support of States in the furtherance of its work. Those States among us and those organizations that have made generous donations in kind or to the Voluntary Trust Fund in favour of the Tribunal deserve commendation. Furthermore, the report of the Tribunal underscores the significance of judicial assistance that States have to render if the work of the Tribunal is to be facilitated. We therefore have a singular responsibility as members of the international community to render the necessary support in the execution of warrants and other judicial documents issued by the Tribunal. Once again, those States whose cooperation made possible the transfer of suspects to the Tribunal deserve our special commendation.

We do not need to be reminded of the fact that cooperation and judicial assistance with the International Criminal Tribunal for Rwanda are provided for in article 28 of its statute, stipulating that States shall comply without undue delay with any request for assistance or with any order issued by the Tribunal. Indeed, the statute, which is annexed to Security Council resolution 955 (1994), places upon us a legal obligation to cooperate with and assist the Tribunal in the fulfilment of its responsibility. Our cooperation and assistance are thus of critical significance for the healing process in Rwanda. This will also convey an unmistakable message to the perpetrators of the genocide about our resolve to prosecute. It should also serve to warn them that they cannot take consolation in the possibility of our failure to cooperate with or render assistance to the Tribunal.

The United Republic of Tanzania supports the call for sufficient means to enable the International Criminal Tribunal for Rwanda to discharge the mandate placed upon it and fulfil the aspirations of the international community. That mandate and those aspirations are about justice and humanity. Our resolve to prosecute those responsible for the genocide must therefore never be placed in question. It is the only way which, through the accomplishment of the mission of the Tribunal, we can leave a legacy not of disenchantment and hatred, but of hope for humanity, justice and peace.

In conclusion, my delegation would like to convey its strongest commendation to the Government and people of Rwanda for the sterling work they are doing to receive the refugees and returnees from eastern Zaire. They deserve the unwavering support of the international community. The return, resettlement and reintegration of the refugees into Rwandese society is an important beginning in that country's healing process and renewal. The onus now is on the international community to extend a generous helping hand in support of that process.

Mr. Gumbi (South Africa): At the outset, I would like to thank Judge Laïty Kama, President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994, for his comprehensive introduction of the report of the Tribunal as contained in document A/51/399. I should also like to express my Government's sincere appreciation to the former Prosecutor, Justice Richard Goldstone, for his

efforts during the initial stages of this Tribunal and to assure his successor, Judge Louise Arbour, of the continued support of the South African Government for the work of both the Rwanda and Yugoslavia Tribunals.

The report under consideration today by the General Assembly is of singular importance, as it marks the first time that the Assembly is considering developments that have taken place since the establishment of the Rwanda Tribunal by the Security Council in resolution 955 (1994) of 8 November 1994.

In any new institution, a number of teething problems arise which require immediate attention and innovative solutions to ensure ultimate success. The Rwanda Tribunal is no exception. Obstacles such as establishing the necessary administrative infrastructure and the precarious financial situation at the United Nations contributed to hindering the work of the Office of the Prosecutor during 1995, while the Tribunal's Registrar was appointed only on 8 September 1995.

Although the Office of the Prosecutor still continues to suffer from major staff shortages, a situation which must be rectified as soon as possible, substantial progress has in fact also been made during this last year. During the period covered by the report, the Tribunal has established its headquarters in Arusha in the United Republic of Tanzania, and the legal and material structure necessary for the proper progress of its judicial activities has also been established.

The first preparatory stage has almost come to an end, and the Tribunal has already become fully operational. Moreover, 14 suspects have been indicted for genocide, and we note from the report that many new indictments are being prepared, which will make it possible to charge a number of additional people with serious violations of international humanitarian law.

Unlike courts at a national level, the Rwanda Tribunal has no enforcement agencies at its disposal, and thus has to rely on the intervention and assistance of national authorities if it wishes, for example, to issue arrest warrants, obtain documentary evidence or search the scene where crimes have allegedly been committed. It is for this reason that cooperation by Member States with the Tribunal becomes so essential. It is important to note that this cooperation is not voluntary, but rather obligatory, by virtue of the creation of the Rwanda Tribunal under Chapter VII of the Charter of the United Nations. That being so, Member States must hand over to the Tribunal those individuals who have been indicted for serious breaches of international humanitarian law, since failure to do so would undermine not only the work of the Tribunal but also the prospects for lasting peace in the region.

This cooperation, furthermore, requires the enactment of national legislation. The uniqueness of the task, coupled with the difficulties inherent therein, has highlighted the need for combined action to address this matter. For this reason, my Government, together with the organization known as Parliamentarians for Global Action, will host an international workshop in Cape Town during February 1997 which will address the terms, problems and solutions relating to cooperation with the Rwanda Tribunal. Its objectives will be, *inter alia*, to provide a review of the terms of Member States' cooperation with the Rwanda Tribunal and to identify the practical difficulties, both constitutional and statutory, encountered by Governments in adopting such legislation.

As mentioned in paragraph 77 of the report, a number of challenges face the Rwanda Tribunal during 1997. My delegation is of the view that it is essential that the Office of the Prosecutor be provided with the necessary human and material resources it needs to continue and even speed up the pace of its work. In addition, the Tribunal must be given the necessary financial resources to enable it to complete the construction of the two envisaged courtrooms and accommodation for both victims and witnesses.

Let me conclude by reaffirming my Government's commitment to the success of the International Criminal Tribunals for Rwanda and Yugoslavia. The creation of these Tribunals represents a clear sign that the international community will no longer tolerate violations of international humanitarian law, and will help to ensure that those individuals who commit grave breaches of international humanitarian law will find no safe haven anywhere in the world, but will be forced to answer for their actions in a court of law.

A unique opportunity awaits the international community to formalize this arrangement with the creation as soon as possible of a permanent international criminal court — an ideal which my Government fully supports.

Mr. Berteling (Netherlands): I wish first to thank the President of the Rwanda Tribunal for his important

statement and for introducing the report of the Tribunal.

A few weeks ago, we discussed the report presented by the President of the Yugoslavia Tribunal. Much that was said at that time applies equally to the Rwanda Tribunal. That is to say, the Rwanda Tribunal is faced with a very difficult task: to judge persons responsible for one of the most egregious crimes imaginable to humanity — the crime of genocide. This task is so difficult because, *inter alia*, of the number of suspects, the limited resources, high expectations among survivors of the genocide, and the sometimes low priority given within States to cooperation with the Tribunal.

It would, however, be too easy to join defeatist opinions and to conclude that the mission is an impossible one. My country has had high expectations of the Tribunal since its creation, and it continues to have these expectations. From this perspective, I would like to draw attention, as did Judge Kama himself a moment ago, to the problems with which the Rwanda Tribunal has been and still is confronted and which are impeding the effective functioning of the Tribunal. These remarks are made against the background of the Netherlands being a "partial host country" for the Rwanda Tribunal and being a seriously concerned Member State of the United Nations, which believes in the promotion and development of international law.

First of all, it needs to be pointed out that the Rwanda Tribunal has always stood in the shadow of the Yugoslavia Tribunal. Political, diplomatic and legal circles have concentrated on the Yugoslavia Tribunal. This is a rather unfortunate and unjustified situation. After all, the seriousness of the crimes committed and the number of victims in Rwanda are at least on a similar scale to those of the crimes perpetrated in the former Yugoslavia. The Netherlands therefore hopes that in the future international attention will be more equally divided between the two ad hoc Tribunals. The fact that the first trial before the Rwanda Tribunal will, it is hoped, start at the beginning of next year may contribute to more balanced attention for both Tribunals.

Secondly, the Rwanda Tribunal is faced with serious financial and managerial problems. The Netherlands has regularly been confronted with these problems, *inter alia*, when it tried to have extra personnel start their investigative work for the Tribunal. Coordination between the Tribunal and United Nations Headquarters has been far from optimal. Budgetary decisions have been implemented too slowly. As a result, considerable delays in the implementation of the work of the Tribunal have occurred. Highly motivated people became frustrated with these problems. This is an undesirable situation that requires rapid and effective measures to be taken.

In this respect, the Netherlands welcomes the recent mission to the Tribunal of the Office of Internal Oversight Services. It looks forward to the findings of this mission, and sincerely hopes that it will lead to concrete improvements. After all, the work to be done is almost insurmountable. In view of this fact, it is of the utmost importance that the resources available should be used in the most effective way. Given the limited temporal jurisdiction of the Tribunal — only the crimes committed in the year 1994 are covered — the credibility of the Tribunal will be in jeopardy if prosecutions have to wait for too many years.

Thirdly, I should like to draw attention to the question of the cooperation of States with the Tribunal, as earlier speakers have done. Lacking its own enforcement powers, the Tribunal is fully dependent on the cooperation of States for its very functioning. Only a limited number of States have passed legislation enabling such cooperation. Furthermore, although the whereabouts of many of the leaders responsible for the genocide are well known, only a limited number are imprisoned and only a few of them are in the hands of the Tribunal. The Netherlands attaches great importance to breaking the circle of impunity that has reigned in Rwanda during the past decades. Every effort should be made, by all States that are in a position to do so, to arrest suspects of the genocide and to enable the Tribunal to act in accordance with its task, which was given to it by the Security Council.

With the adoption of resolutions 827 (1993) and 955 (1994), creating the ad hoc Tribunals for the former Yugoslavia and for Rwanda, the Security Council took remarkable steps, not only in relation to its primary task of maintaining international peace and security, but also in relation to the promotion of international law. Those decisions underpin the fact that peace and justice are inseparably linked. The world community has high expectations in this field. But that world community does not believe in words; it believes in action. The ad hoc Tribunal for Rwanda, the United Nations itself and United Nations Member States have the responsibility to do everything within their respective powers to contribute to the work of the Tribunal.

In this respect, I should also like to recall that discussions are taking place about the creation of a permanent international criminal court. As many delegations are aware, my country attaches great importance to a successful continuation of these discussions and to the creation of such a court. Both ad hoc Tribunals serve as examples for that court. Lessons can be learned, and mistakes and shortcomings must be prevented in the future.

I wish to reiterate my country's firm commitment to supporting the Tribunal, and call upon all the parties involved — States Members of the United Nations and the United Nations itself — to do their duty and make the International Tribunal for Rwanda a success. That success is urgently needed — for the victims of the genocide in Rwanda, for the credibility and stature of the United Nations and for the development of international law.

Mr. Mangoaela (Lesotho): My delegation wishes to express its appreciation for the first annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda and Rwandan Citizens Responsible for Genocide and Other Such Violations Committed in the Territory of Neighbouring States between 1 January and 31 December 1994. We thank the President of the Tribunal, Judge Laïty Kama, for his comprehensive and lucid introduction of the report. We wish particularly to commend the entire team composing the International Tribunal for Rwanda for its untiring efforts and commitment during the exceptionally trying times of the Tribunal's infancy.

There is no doubt from reading the report that the Tribunal has made significant progress in overcoming some of its teething problems, and that it is now in a position to concentrate on its priority task of bringing to justice the perpetrators of the dreadful crimes committed in Rwanda and neighbouring States. We are particularly delighted to note that some of the necessary practical arrangements for the effective functioning of the Tribunal have been finalized and that the offices of the Registrar and the Prosecutor are functioning. The swiftness with which the Tribunal has moved in putting in place structures necessary for the meaningful progress of its judicial activities and the commencement of trials is commendable.

We have noted several other welcome developments from the report. Besides the swift establishment of its normative and logistical infrastructure, the Tribunal's first indictment of eight suspects, and the subsequent confirmation of these indictments in November 1995, are indicative of the Tribunal's commitment to prosecute all suspects without delay. Of particular significance to the international community, and especially to Africa, was the first appearance before the Tribunal of three accused persons, in May 1996. This event should be hailed as an important milestone marking the beginning of an era in which the pursuit of justice will assist the cause of peace. My delegation believes that peace and justice are mutually supportive, and that the two should be pursued together.

We welcome the significant contributions of the international community, international organizations and non-governmental organizations, which, through various forms of contribution, have generously supported the Tribunal. This support should be not only continued, but increased and enhanced, to ensure that perpetrators of the worst crimes against international humanitarian law will never be allowed to feel secure, and that victims will receive comfort through the authority of the law and not through the barrel of the gun.

The report before us also highlights some of the difficulties that the Tribunal is faced with in the performance of its duties. Among these are the problems of the obligations of States fully to cooperate with the Tribunal. On previous occasions, my delegation has stressed the importance of effective cooperation between States and international tribunals by stating that such cooperation is a prerequisite for the success of international tribunals. The need for cooperation and support of all efforts for the effective functioning of the Rwanda Tribunal has thus been justifiably stressed in the report.

The obligation to cooperate stems from States being Members of the United Nations. As members of the world body, all States are required to give the United Nations every assistance in any action it takes in accordance with the Article 2, paragraph 5, of the Charter. Furthermore, under Article 25 and Chapter VII of the Charter, Members are obliged to carry out decisions of the Security Council. The cooperation of States with the Rwanda Tribunal has been ensured through a binding resolution of the Security Council under Chapter VII: Security Council resolution 955 (1994).

The types of cooperation that are envisaged to enhance the Tribunal's effectiveness include, among

others, informing the Prosecutor of the arrest of a suspect or an accused person; informing the Registrar promptly of an arrest or the inability to execute an arrest warrant; informing all accused persons, at the time of their trial, of their rights and the charges that they face in a language that they understand; and surrendering or transferring the accused persons to the Tribunal without resorting to the traditional cumbersome extradition procedures.

We have been particularly pleased to note the healthy working relationship and cooperation that the Tribunal has enjoyed with various Governments. In particular, the spirit of cooperation demonstrated by the Governments of Zambia, Belgium and Switzerland in several cases where the Rwanda Tribunal has made formal requests for deferral of investigations and legal proceedings after the arrests of suspects, is commendable and should be emulated by the rest of the international community.

One of the primary duties flowing from Security Council resolution 955 (1994) is the enactment of legislation permitting cooperation with the Rwanda Tribunal. Citing the normally unjustified complexity of carrying out this task, the international community has been particularly slack in complying with this requirement. It is regrettable that in the almost two years since the establishment of the Rwanda Tribunal, only 11 States have so far enacted legislation authorizing cooperation with the Tribunal.

Lesotho reiterates its commitment fully to cooperate with the Rwanda Tribunal, in accordance with the provisions of the Security Council resolution. Lesotho, together with its partners in the southern African region, will continue to pursue all means aimed at satisfying the requirements for effective cooperation with the Tribunal. We reiterate our call on States, particularly African States, to rally their support and fully cooperate with the Rwanda Tribunal to ensure that it fulfils the difficult tasks that have been entrusted to it. There can be no justification, legal or otherwise, for failing fully to cooperate with the Tribunal.

The creation of the Rwanda Tribunal has enhanced the momentum towards the creation of a permanent international court by providing fresh impetus to considerations for the establishment of such a court. The perceived success or otherwise of the Tribunal at this early stage could either enhance or frustrate the prospects for a permanent court. If the Tribunal is able to gain custody of alleged offenders and actually hold trials, the decision both to create it and to allocate resources to enable it to operate will be vindicated, and arguments for the creation of a permanent court will be strengthened. Should the Tribunal fail to conduct trials or be able to try only a small number of accused, those who have been critical of it will question the expediency of creating a permanent court. For these reasons, the Tribunal deserves our strong and unequivocal support.

Let me conclude by expressing my delegation's appreciation to the Government of the United Republic of Tanzania for hosting the Tribunal and for its continuous support of that body's work.

Mr. Petrella (Argentina) *(interpretation from Spanish)*: I wish sincerely to thank the President of the Tribunal, Judge Laïty Kama, for his statement, which we deem historic.

We welcomed with satisfaction the first annual report of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in the Territory of Rwanda. That satisfaction was due to the fact that the report's very submission, as well as the statistics it provides, testify to the start-up and the consolidation of the work of the Tribunal — created in 1994 by the Security Council at the request of the Government of Rwanda — to try those responsible for the enormous and flagrant crimes perpetrated in that country. Through that action, the Security Council assumed, in conformity with prevailing circumstances, the responsibilities conferred on it under Chapter VII of the Charter.

This sent the clear message that the international community was not prepared to allow aberrant acts to go unpunished, and that this punishment was essential in order to restore peace in Rwanda and to contribute to the process of national reconciliation.

In addition, this historic event reflects the trend initiated by the International Court of Justice in the 1950s to limit the scope of domestic jurisdiction over certain kinds of practices and policies that are repugnant to the collective conscience of the civilized world.

Argentina, a member of the Security Council in 1994, supported the establishment of the Tribunal just as we had earlier supported the establishment of the International Tribunal for crimes committed in the territory of the former Yugoslavia, because of our conviction that international peace and security depend

more on individual responsibility than on so-called collective responsibility.

We find it encouraging that both Tribunals today are operational and that the Tribunal for Rwanda, despite difficulties, has been able to begin its judicial action, which has included confirmation of the indictment of 21 individuals. We also find the considerable progress achieved by the Office of the Prosecutor praiseworthy despite the obstacles it has faced. The Tribunal now must undertake the enormous task of investigating thousands of cases to ensure the judging and the sentencing of, at the very least, those primarily responsible for crimes that, because of their seriousness, are an affront to the international community as a whole.

As the experience of the Tribunal for the former Yugoslavia has demonstrated, the cooperation of States is essential to this task and to ensuring that evidence is produced and that suspects are surrendered.

The viability of these International Tribunals — which have no enforcement capacity of their own — depends almost exclusively on broad and unconditional compliance by States with their legal obligation and their moral duty to cooperate.

With the creation of the Tokyo and Nuremberg Tribunals and, almost 50 years later, of the Tribunals for the former Yugoslavia and Rwanda, the international community has affirmed that justice is imperative for a stable peace. The functioning of these Tribunals must be taken into account in our negotiations for the establishment of an international criminal court, which are taking place on the basis of the draft statute effectively prepared by the International Law Commission. Argentina attaches the utmost importance to a general and permanent international criminal court.

Recent history and our collective commitment to the future make it a necessity to contribute to the success of these institutions, which will establish a system based on international law and on the responsibility of individuals for their own acts.

Finally, we pay sincere tribute to the people of Rwanda, whose suffering will not have been in vain if the international system is able, after so many years, to establish a permanent international criminal court.

Mr. Abdellah (Tunisia) (*interpretation from French*): At the outset, I should like to thank the President of the International Criminal Tribunal for Rwanda, Judge Laïty Kama, for introducing the first report on the work of the Tribunal. This report gives us an opportunity to learn about the progress that has been made in establishing the Tribunal and of the work done so far as part of the mission entrusted to the Tribunal by the Security Council in resolution 955 (1994).

I would also like to pay tribute to Judge Richard Goldstone for his work in carrying out his functions as Prosecutor for the International Tribunals on the former Yugoslavia and Rwanda. I congratulate his successor, Judge Louise Arbour, and wish her every success in her new position.

As we take up this issue, the situation in the Great Lakes region continues to be a source of concern to the international community because of the prevailing tension and the hostilities there. The situation is particularly dangerous in that — if preventive measures are not taken very soon — there is a risk of a recurrence of the tragedy of 1994, when hundreds of thousands of Rwandans were savagely killed.

Without a doubt, the problems that require urgent and sustained action include the impunity of certain criminals responsible for genocide in Rwanda. Until that problem is resolved, national reconciliation, which is essential for the normalization of the situation in the country, will remain a pious wish.

It is from this perspective that we see the establishment of the International Tribunal for Rwanda. It was established in response to the international community's resolve not to let crimes against humanity go unpunished and to prevent any recurrence of such crimes.

While we welcome the establishment of the Tribunal, we nevertheless regret that it took far too long, prolonging the problem of impunity and giving several criminals time to shift into other activities and thereby escape justice.

As the report before us emphasizes, the lack of financial resources was responsible for delaying the start of the Tribunal's work. It has been only through the commendable actions of certain Member States and non-governmental organizations that the Tribunal has been able at last to begin operating.

Without adequate means, it would obviously be difficult to provide the necessary resources for judicial work. We believe that mobilizing sufficient financial resources is essential if the Tribunal is to do its work at a time when the number of suspects should be increasing as progress is made in investigations.

According to the report, the Prosecutor has said that he intends to follow a strategy similar to that followed by the Office of the Prosecutor of the International Tribunal for the Former Yugoslavia, giving priority to investigations and the prosecution of individuals who had major responsibility for events in Rwanda in 1994. The reason given in explanation of this strategy relates once again to financial problems.

In proceeding in this way, there is a danger that the Tribunal might not be entirely up to the task of prosecuting all criminals without distinction. But that is a fundamental principle that must be respected if we are to reassure the populations and strengthen their confidence that all those responsible for the genocide will be brought to justice. While we understand why the Office of the Prosecutor adopted this strategy, we must emphasize that it is up to the international community to provide the necessary material support to ensure that all criminals can be brought to justice.

Unless there is a lasting and comprehensive solution to this problem of impunity, the situation in the Great Lakes region will remain precarious and the tragedy of Rwandan refugees will continue to be a source of instability. In other words, the role of the Tribunal is not confined to justice, but extends to the political arena as well, because the actions it takes can promote a climate conducive to the re-establishment of a lasting peace in the region.

Another very important factor here is cooperation between the Tribunal and Member States, particularly those of the Great Lakes region. The need for cooperation is emphasized several times in the report on the work of the Tribunal and it is necessary to give this problem the attention it deserves.

In the final declaration adopted at the summit held in Tunis, from 16 to 18 March 1996, the Heads of State of the Great Lakes region stated that they undertook to support fully the International Criminal Tribunal for Rwanda and to transfer all persons charged in their territory to the legal authorities. The Heads of State also reaffirmed their resolve to cooperate fully with investigations by competent legal bodies.

This was a commendable commitment by the Heads of State of the region to helping the Tribunal to carry out its mission. We trust that the commitment of the international community will be equally consistent, so that the mission that has now begun can successfully complete its work.

Mr. Wouters (Belgium) (*interpretation from French*): My delegation wishes, first, to thank the President of the International Criminal Tribunal for Rwanda, Mr. Kama, for introducing this first report on the activities of the Tribunal, published in document A/51/399. This report begins by giving us an overview of the practical measures that have been undertaken in order to set up the Tribunal. It then provides a summary of its initial judicial activities. The report will serve as a useful reference for assessing progress achieved by the International Criminal Tribunal in the future.

Today's debate gives me an opportunity to recall the importance that Belgium has always attached to the establishment of this Tribunal and, above all, to its effective operation. This commitment is not mere rhetoric; it has been backed up by a considerable financial contribution from Belgium to assist the Tribunal in accomplishing its tasks. In addition to this financial assistance, Belgium has given complete judicial cooperation by adopting, last March, a law which provides for the deferral of Belgian courts to the International Criminal Tribunal when that Tribunal so requests. It is on the basis of this law that the Belgian judicial authorities deferred three cases, as can be seen in paragraph 48 of the report before us today.

Support for the International Criminal Tribunal is clearly essential if we wish justice to be served as well and as swiftly as possible. We cannot allow time and inaction to erase the horror of the massacres that took place in Rwanda. Belgium would therefore reiterate its appeal to all Member States to cooperate fully with the work of the Tribunal. This is in fact what the report requests in its conclusion, which emphasizes that

> "the cooperation of States plays an important role in regard to the Tribunal's work." *(A/51/399, para. 76)*

While it is essential, we must not, think that this cooperation of Member States will suffice in itself to

guarantee success. It is also up to the International Criminal Tribunal to organize itself as effectively as possible in order to carry out the tasks entrusted to it.

So far, 21 individuals have been indicted, of whom 13 have been arrested. More than two years after the massacres which took the lives of hundreds of thousands of individuals, we may wonder if more could not be done to detain and to try all those responsible for these atrocities. Justice dictates the use of extreme caution, of course, and we would be flouting justice were we to act in haste. But caution cannot justify all the delays.

It is true that the establishment of an institution such as the International Criminal Tribunal for Rwanda encounters numerous difficulties, which are sometimes difficult to overcome. In addition to the practical difficulties referred to in the report, the functioning of the International Criminal Tribunal is sometimes hampered by cumbersome procedures, resulting from a delicate combining of various legal systems. In this regard, it would seem essential to establish a true judicial strategy in order to improve the procedures. Today we must learn from these difficulties in order to overcome them as quickly as possible, to enable the Tribunal to focus on the essential task: trying those responsible for the genocide in Rwanda. The credibility of the Tribunal is at stake, without which it will not command respect.

With the recent massive return of refugees, Rwanda has greater need than ever for the justice that the International Criminal Tribunal has been entrusted to provide. This is because, first, it would be inconceivable for those responsible for the massacres to escape the sentencing they deserve; secondly, because we cannot hope to build national reconciliation in that country by abandoning it to a climate of suspicion. This would only ignite passions, the spirit of revenge and the cycle of violence once again.

The success of the International Criminal Tribunal is important not only for Rwanda, but for the entire international community. Its experience, as well as the experience of the International Tribunal for the former Yugoslavia, will certainly enable us to smooth the way for creating an international criminal court. My delegation is aware of the complexity of this undertaking. It is nevertheless convinced that this Court will be the best preventive response to those who, trusting in the immunity offered by the chaos of war, cold-bloodedly order the massacre of entire groups of human beings.

Mr. Hasmy (Malaysia): My delegation thanks Judge Laïty Kama, President of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide and Other Serious Violations of International Humanitarian Law Committed in Rwanda, for the Tribunal's first annual report, as contained in document A/51/399 of 24 September 1996.

The senseless human tragedy that befell Rwanda in 1994 is still vivid in our minds. The world saw how, in the short space of three months, from April to July 1994, a mindless genocide following the breakdown of law and order resulted in nearly 500,000 lives lost and 3 million people displaced from their homes, half of whom ended up in refugee camps in neighbouring States. We see to this day the spillover effects of this enormous human tragedy on neighbouring countries, such as Burundi and Zaire, where we have witnessed similar violent clashes and senseless killings.

As the international community gradually came to grips with what was then happening, various forms of assistance were mobilized to bring some semblance of law and order to Rwanda and the other countries affected by the tragedy. We laud the efforts undertaken by the international community, spearheaded by the United Nations, to reach out and provide relief assistance. Recently we witnessed lines of refugees streaming out of Zaire and back to the places from which they had initially escaped, indicating that some measure of success has indeed been achieved and that a measure of law and order has been restored. These efforts should be further encouraged and supported.

Malaysia welcomes the serious efforts undertaken by the Rwandan Government towards national reconciliation and rebuilding the country. We also welcome the efforts by the neighbouring countries and personalities in establishing an environment conducive to the restoration of peace and stability in the region, thereby encouraging the return of refugees and displaced persons.

Nonetheless, efforts aimed at the return of peace and stability through the restoration of law and order can truly succeed only on the basis of the restoration of public confidence in the rule of law in Rwanda. This means nothing less than bringing the perpetrators of the genocide in Rwanda to justice. Herein lies the important role of the International Criminal Tribunal for the Prosecution of Persons Responsible for Genocide in Rwanda. It is imperative that we prevent another cycle of violence, initiated by those who might feel that they were

denied justice and might take the law into their own hands to avenge the deaths of their loved ones in the name of justice.

My delegation therefore welcomes the establishment of the Tribunal. We offer congratulations on the appointment of Judge Laïty Kama as its President. His wise and courageous leadership and vast experience and legal expertise will indeed be crucial in guiding the Tribunal in its critical role of re-establishing public confidence in the rule of law in Rwanda.

Genocide, whether it occurs in Rwanda or in the Former Yugoslavia, is a crime against humanity which should be condemned, as it involves the systematic slaughter of fellow human beings purely on the basis of their ethnicity or religion. Wherever it rears its ugly head, it is an assault on our common humanity and ought to be strenuously resisted by the international community. In this regard, therefore, the importance of this Tribunal cannot be overemphasized. Like the International Tribunal for the Former Yugoslavia, it is an essential instrument for investigating genocide and other serious violations of international humanitarian law committed in Rwanda and for prosecuting those guilty of these crimes against humanity. The Tribunal serves as the conscience of the international community. It is the manifestation of the moral outrage of humanity over the transgressions of civilizational norms and ethics. The effective and successful conclusion of the work of the Tribunal is important so as to ensure that punishment of the guilty is meted out through due process of the law rather than through sporadic or organized acts of vengeance which would only unleash renewed cycles of violence.

The Tribunal should be commended for its work, for in spite of numerous obstacles and challenges and serious financial and other constraints it has been able to make substantial progress thanks to the commitment and dedication of its officers. It deserves every support and encouragement from the international community — be it moral, political or financial — so that it may fully discharge its responsibilities. Its inability to do so would be an indictment of our lack of collective resolve and commitment to do what we believe is right.

Mr. Henze (Germany): Allow me to convey through you, Mr. President, my deep appreciation of the report of the International Criminal Tribunal for Rwanda and its presentation by the Tribunal's President.

Germany is highly conscious of the pivotal function of the Tribunal's work. In our view, the successful work of the Tribunal is a prerequisite for national reconciliation in Rwanda. It is essential for the Tribunal to show that acts of genocide, on whichever side they may have been committed, will not go unpunished. Swift and effective action is required to convince the families of the victims that justice, not revenge, is the order of the day. Only justice can stop an escalation of revenge.

Germany appreciates the Tribunal's achievements to date: twenty-eight cases have been taken up, and in 21 of them, indictments have been made; 12 suspects are being detained in Arusha and elsewhere; and three trials have commenced.

However, Germany is also aware of the difficulties in the work of the Tribunal. We understand that some Governments are impatient with what they consider the slow progress in the Tribunal's work. Nevertheless, we appeal to everyone to show patience and lend their valuable and indispensable support to the Tribunal. Any lack of cooperation based on a negative evaluation of the Tribunal's performance could become a self-fulfilling prophecy.

Germany agrees with all those who urge that all available means be used to speed up the work of the Tribunal. Any obstacles that may stand in the way of the swift execution of the Tribunal's work ought to be examined and removed. It is not only the credibility of the Tribunal that is in danger. At stake is also the credibility of the United Nations, which has, through its Security Council, established the Tribunal and reaffirmed in a number of resolutions the obligation of all States to cooperate fully with it. Also at stake is the credibility of the international community as a whole, from which Rwanda rightly expects a sensible and effective contribution to the criminal prosecution of genocide. Ways must be found to improve cooperation between the Tribunal and the Governments concerned.

My Government continues to lend its political and material support to the Tribunal. The Prosecutor to be delegated by my Government, who gathered valuable experience as a member of the Human Rights Field Operation in Rwanda, will have taken up his position with the prosecution authorities in Kigali by the end of this week. My Government has instructed me to avail myself of this opportunity to express once again Germany's unequivocal commitment to the Tribunal and its purpose: that justice be done and be put into practice.

Germany calls upon all States to lend their active support to the Tribunal. We furthermore convey our thanks to all those States that have already proved, in individual cases, their willingness to cooperate with the Tribunal. Our special appreciation goes to the United Republic of Tanzania as the host country of the Tribunal.

There is no alternative to the Tribunal if we are to overcome the stigma of the genocide that continues to stand in the way of reconciliation in Rwanda. This opportunity must not be wasted.

Mr. Politi (Italy): First of all, I wish to thank the President of the International Criminal Tribunal for Rwanda, Chief Justice Laïty Kama, for his comprehensive and thoughtful presentation of the first report on the activity of the International Tribunal.

The report underlines the progress made by the Tribunal in its first year of existence and the challenges that it still faces if it is to carry out the mandate given it by the Security Council. We are pleased to note that the Tribunal has become operational and that its judicial activities have begun. Indictments have been handed down and confirmed. Persons accused have been apprehended and have made their initial appearances before the Tribunal. The first trials are planned for January 1997.

As in the case of the International Criminal Tribunal for the Former Yugoslavia, we would like to reiterate here Italy's strong and unreserved support for the action of the Tribunal for Rwanda.

The report also gives us an account of the problems encountered by the International Criminal Tribunal for Rwanda in carrying out its functions. As stated by Chief Justice Kama, the cooperation of States plays a crucial role in regard to the Tribunal's work. This cooperation may take place at various levels and include financial and material assistance; effective cooperation between the Tribunal and the national judicial and police authorities; and the enactment of implementing legislation enabling States to cooperate with the Tribunal. We concur in the view expressed in the report that in order to fulfil these tasks, the Tribunal must be given sufficient means and receive the full support of the international community.

Italy has consistently advocated the need for effective prosecution and punishment at the international level of acts of genocide and other serious violations of international humanitarian law. The International Criminal Tribunal for Rwanda has a very important role to play in this respect, and Italy is committed to its success. Moreover, and this point has been stressed by several speakers today, the experience of the Tribunal for Rwanda, like the experience of the International Criminal Tribunal for the Former Yugoslavia, is to be considered as one of the key elements for the future establishment of a permanent international criminal court, a project that is well under way and for which Italy has offered to host, in 1998, a diplomatic conference to adopt a statute for such a court.

In concluding, let me express once again my country's firm commitment to supporting the International Criminal Tribunal for Rwanda.

Mr. Ubalijoro (Rwanda): At the outset, I should like to express my Government's gratitude to the President of the International Tribunal for Rwanda for having submitted the annual report of the International Tribunal to the General Assembly (A/51/399). I should also like to convey, on behalf of my Government, our special appreciation for the statements of solidarity, encouragement and sympathy expressed by Member States here today.

Now that the International Tribunal for Rwanda has begun, after significant frustrating delay, its long-awaited trials for war crimes committed in Rwanda, we all know that this will be a critical test of the Tribunal's commitment effectively to address the Rwanda cases of genocide.

Two years ago, while the former genocidal Rwandan leadership and its militias were butchering over 1 million Rwandans, the reports of systematic rape as a tactic of war received little attention. One survey conducted in the capital, Kigali, and several other areas by Rwanda's Ministry of Family and Women's Affairs estimated that, during the genocide crisis, more than 15,700 girls and women between the ages of 12 and 65 were raped. In all the areas in which the militias massacred civilians, its members also raped women. The real number of women who were raped will never be known since most victims of rape choose to remain silent because they are either traumatized, ashamed or bitter against society. Some women were gang-raped, some were forced to watch their families murdered and were then raped and some were taken as prizes of war and coerced into living in the homes of the men who had raped them. While the International Tribunal for war crimes at The Hague continues to investigate atrocities

and to seek the indictment of human rights violators, the voices of the victims must be given new priority.

Today, Rwanda's population is 70 per cent women, 60 per cent of whom are widows. Some of them are victims of rape, forced prostitution, forced pregnancy and other related crimes, which were used as instruments of crimes against humanity and genocide.

My Government would like to take this opportunity to pay tribute to Canadian Judge Louise Arbour, who has replaced Richard Goldstone of South Africa as the chief Prosecutor of the Rwanda and Yugoslav Tribunals. In light of her brilliant career, we are convinced that she will continue the legacy of Judge Goldstone, do her utmost to expedite genocide trials and give particular attention to gender-related crimes.

As stated in the report on the International Tribunal for Rwanda, the Tribunal has, over the past two years, concentrated mainly on the establishment of the legal and material infrastructure necessary for the proper progress of its judicial activities and the commencement of trials. However, that stage has taken too long. The survivors of genocide have begun to lose hope in the structure, purpose and objective of the International Tribunal for Rwanda.

I should like to give an example of one of the major failures of the International Tribunal for Rwanda. As the report states, on 17 May 1996, Judge Aspegren rendered four decisions ordering provisional detention for a period of 30 days of four well-known key architects of the genocide in Rwanda. These were Mr. Théoneste Bagosora, Mr. André Ntagerura, Mr. Ferdinand Nahimana and Mr. Anatole Nsengiyumva, all of whom were being held by the Cameroonian authorities. After an *inter partes* hearing between the defence council and the Prosecutor, the detention of the four suspects was extended for 30 more days. Today, the tergiversation continues as further extensions are made and hearings postponed. These criminals have not been handed over to either the Rwandan Government or the International Tribunal for Rwanda, both of which have asked for them to face trial.

I have singled out this case to demonstrate how the political will of Member States and of the international community is essential for the success of the International Tribunal for Rwanda. Some Member States have demonstrated exemplary political will by giving appropriate follow-up to their international obligations as set forth in contained in Security Council resolutions 955 (1994), which established the International Tribunal for Rwanda; resolution 978 (1995), which deals, *inter alia*, with detention: and the Convention on the Prevention and Punishment of the Crime of Genocide of 1948. Some other Member States have been silent, as if crimes against humanity in a small African country were of no consequence to them.

We are pleased that the President of the Tribunal has taken the initiative of contacting the Secretary-General of the Organization of African Unity (OAU), asking him to transmit the appeal of the International Tribunal to all African States and requesting them to comply with the obligation to cooperate with the International Tribunal for Rwanda. We are also pleased that the President will shortly send similar letters to all States Members of the United Nations.

With regard to some of the technical aspects of the report before us, I would like to comment on the following. With regard to witness protection, we are pleased that the Witnesses Unit was finally established on 24 June 1996. Yet it did not exist for two years and many genocide survivors who were key witness were killed during the infiltration campaigns from eastern Zaire by the former genocidal army. As a result, substantive evidence has been erased. We hope that the Witnesses Unit will be effective and that it will also be extended to gender-related crimes like rape, which have been so far not been considered as crimes against humanity.

As for the implementation of the directive for the assignment of defence council, we are pleased that the request we made last year has been followed up. It is indeed of utmost importance that the financial situation of genocide suspects be fully investigated before they are provided with defence counsel, since the key architects of genocide possess tremendous wealth as a result of having completely looted the Rwandan national economy during the genocide crisis.

With regard to the provisional detention of suspects, we are very discouraged by the revisionist attitude that prevailed during the first trials that have taken place. When hearings are constantly postponed, despite the existence of significant evidence against the current suspects detained by the Tribunal at Arusha, one wonders whether this is appropriate.

On the question of the Secretary-General's delegation of authority in recruitment, we regret that delays in recruitment have already affected the start-up

and follow-up phases of the International Tribunal for Rwanda. The Rwandese delegation officially complained about this matter early this year, on 7 May 1996, at the 57th meeting of the Fifth Committee. We wonder, however, why there is still failure to understand how painful it is for us to learn that this problem continues to contribute to further delay in the recruitment of suitable staff. We urge the Secretary-General of the United Nations to grant the Tribunal the power to delegate authority in personnel matters. Such a step would enable the investigative function to be completed rapidly and thereby contribute to a speeding-up of the reconciliation process.

I would like to conclude my statement by putting on record Rwanda's gratitude to the countries that have generously contributed personnel, *matériel* and financial resources to the International Tribunal for Rwanda.

The Acting President (*interpretation from Spanish*): We have heard the last speaker in the debate on this item.

May I take it that it is the wish of the Assembly to conclude its consideration of agenda item 59?

It was so decided.

The meeting rose at 12.30 p.m.